

by another materially different process. Applicants submit that this minor distinction does not rise to the level of being a “materially different process” requiring restriction under U.S. Patent and Trademark Office procedure and, therefore, the restriction requirement is improper and should be withdrawn. At best, the difference set forth in the Restriction Requirement is a minor, not a material difference. The MPEP clearly states that “[w]here inventions are related as disclosed but are not distinct as claimed, restriction is never proper.” MPEP 806. Applicant submits that the Restriction Requirement fails to demonstrate that the apparatus and process are distinct as claimed and the restriction is not proper.

Applicants further note that the claims have already been examined as a group and thus there is no undue burden on the Examiner to continue to examine the claims together. Claims 49-51, newly added in the Response filed January 13, 2006, are merely re-written versions of earlier claims that were subsequently cancelled. Thus, there is no new matter before the Examiner that would require additional search. Applicants respectfully submit that the restriction requirement creates a substantial burden upon Applicants (time and expense required to prepare and file an additional application), in contrast to little or no additional burden on the Examiner to continue to examine all pending claims together. As stated in the MPEP, § 811, “[b]efore making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required.” Again, Applicants submit that there will not be a serious burden on the Examiner if restriction is not required.

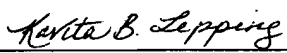
Although Applicants maintain that the restriction is improper, in order to facilitate prosecution, Applicants elect Group I, with traverse and reserve the right of rejoinder of method claims 30-42 and 50.

CONCLUSION

Applicants elect Group I claims 1-18, 20-29, 43-45, 47-49 and 51 for further prosecution on the merits, with traverse. Applicants respectfully request that the Examiner reconsider the restriction requirement and that it be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Restriction Requirement and the present application is in condition for allowance. Applicants request issuance of a Notice of Allowability of claims 1-18, 20-45 and 47-51 and that the application pass to issue. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Respectfully submitted,

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